

Agricultural Marketing Service, USDA

§ 97.11

knowingly correct and false claims have not been made to mislead.

[58 FR 42435, Aug. 9, 1993, as amended at 60 FR 17189, Apr. 4, 1995; 61 FR 248, Jan. 4, 1996]

§ 97.6 Application for certificate.

(a) An application for a plant variety protection certificate shall be signed by, or on behalf, of the applicant.

(b) The application shall state the full name, including the full first name and the middle initial or name, if any, and the capacity of the person executing it.

(c) The fees for filing an application, and search or examination, shall be submitted with the application in accordance with §§ 97.175 through 97.178.

(d) The applicant shall submit with the application:

(1) At least 2,500 seeds of the viable basic seed required to reproduce the variety;

(2) With the application for a tuber propagated variety, verification that a viable cell culture has been deposited in a public depository approved by the Commissioner and will be maintained for the duration of the certificate; or

(3) With the application for a hybrid from self-incompatible parents, verification that a plot of vegetative material for each parent has been established in a public depository approved by the Commissioner and will be maintained for the duration of the certificate.

[58 FR 42435, Aug. 9, 1993, as amended at 60 FR 17189, Apr. 4, 1995; 61 FR 248, Jan. 4, 1996]

§ 97.7 [Reserved]

§ 97.8 Specimen requirements.

(a) The applicant may be required by the examiner to furnish representative specimens of the variety, or its flower, fruit, or seeds, in a quantity and at a specified stage of growth, as may be necessary to verify the statements in the application. Such specimens shall be packed and forwarded in conformity with instructions furnished by the examiner. If the applicant requests the examiner to inspect plants in the field before a final decision is made, all such inspection costs shall be borne by the applicant by payment of fees sufficient to reimburse the Office for all costs, in-

cluding travel, per diem or subsistence, and salary.

(b) Plant specimens submitted in support of an application shall not be removed from the Office except by an employee of the Office or other person authorized by the Secretary.

(c) Plant specimens submitted to the Office shall, except as provided below, and upon request, be returned to the applicant at his or her expense after the specimens have served their intended purpose. The Commissioner, upon a finding of good cause, may require that certain specimens be retained in the Office for indefinite periods of time. Specimens which are not returned or not retained as provided above shall be destroyed.

§ 97.9 Drawings and photographs.

(a) Drawings or photographs submitted with an application shall disclose the distinctive characteristics of the variety.

(b) Drawings or photographs shall be in color when color is a distinguishing characteristic of the variety, and the color shall be described by use of Nickerson's or other recognized color chart.

(c) Drawings should be sent flat, or may be sent in a suitable mailing tube, in accordance with instructions furnished by the Commissioner.

(d) Drawings or photographs submitted with an application shall be retained by the Office as part of the application file.

§ 97.10 Parts of an application to be filed together.

All parts of an application, including exhibits, should be submitted to the Office together, otherwise, each part shall be accurately and clearly referenced to the application.

§ 97.11 Application accepted and filed when received.

(a) An application, if materially complete when initially submitted, shall be accepted and filed to await examination.

(b) If any part of an application is so incomplete, or so defective that it cannot be handled as a completed application for examination, as determined by the Commissioner, the applicant will be notified. The application will be